

IN THE UNITED STATES PATENT  
AND TRADEMARK OFFICE

**Amendment  
in Response to Non-Final Action**

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

The above identified applicant respectfully requests the Commissioner of Patents consider the enclosed remarks and enter the following submission into the record, in response to the Non-final Action dated April 13, 2006. If the Office requires additional action that may benefit from a telephone call, Applicant invites a call to its attorney of record, Nathan W. Johnson (Reg. No. 44,173). E-mail correspondence and transactions to [NJohnson@BradleyArant.com](mailto:NJohnson@BradleyArant.com) are authorized and encouraged.

**Amendments to the Specification – NONE.**

**Amendments to the Claims – NONE.**

**Amendments to the Drawings – NONE.**

**Remarks/Arguments –** Begin on page 2 of this paper.

An **Appendix** begins at page 4 of this paper, being:

- (1) a TERMINAL DISCLAIMER (regarding co-pending Appl. No. 10/841,197);
- (2) a 2nd TERMINAL DISCLAIMER (regarding co-pending Appl. No. 10/685,914); and
- (3) a Statement of the Assignee under 37 C.F.R. 3.73(b) on PTO/SB/96.

## **Responses to Examiner's Remarks in Detailed Action**

Reconsideration and further examination of the application is respectfully requested. The application stands provisionally rejected for judicially created double patenting concerns as to all Claims (3, 11 and 17-21) now pending, over co-pending Application Nos. 10/685,914 and 10/841,197 respectively.

### **Double Patenting:**

The Examiner provisionally rejected all claims over co-pending Application Nos. 10/685,914 and 10/841,197, respectively, under a nonstatutory obviousness-type double patenting rejection based on the judicially created doctrine, inviting (at paragraph 3) a terminal disclaimer to obviate each such rejection. In response, Applicant encloses herewith:

- (1) A Terminal Disclaimer, with respect to App. No. 10/685,914 executed by Mr. John E. Freeman, Vice President and Corporate Counsel of United States Pipe and Foundry Company, LLC (using form PTO/SB/25 (10-05).
- (2) A Terminal Disclaimer, with respect to App. No. 10/841,197 executed by Mr. John E. Freeman, Vice President and Corporate Counsel of United States Pipe and Foundry Company, LLC (using form PTO/SB/25 (10-05).
- (3) A Statement under 37 C.F.R. 3.73(b), also executed by Mr. John E. Freeman, Vice President and Corporate Counsel of United States Pipe and Foundry Company, LLC (using form PTO/SB/96 (12-05), stating that the company is the owner by assignment of 100% of the interest in the present Application. (It is acknowledged that there are security interests of record).

Applicant respectfully contends that the Terminal Disclaimers, supported by the 3.73(b) Statement, successfully respond to and overcome each provisional rejection levied by the Examiner.

**Claims Allowed**

The Examiner indicated that Claims 3, 11 and 17-20 are allowed (though the double patenting issues remain). No action or response (beyond provision of the enclosed terminal disclaimers) is required or taken by the Applicant in order to be fully responsive.

**Fees**

This response is timely and no extensions fees are required. The Terminal Disclaimer fee under 37 C.F.R. 1.20 is submitted with the EFS Web filing hereof, in the amount of \$260.00, to cover the fee for two such disclaimers.

Applicant has diligently sought to comply with all requirements and to correct all informalities, rejections and objections. The Application is believed to be in condition for allowance, and a timely Notice of Allowance is respectfully requested.

Date

4/28/2006

Respectfully submitted,  
BRADLEY ARANT ROSE & WHITE LLP

Nathan W. Johnson  
Reg. No. 44173  
205-521-8369

**ATTACHMENTS**

Terminal Disclaimer ('914)  
Terminal Disclaimer ('197)  
Statement Under 3.73(b)

(Initials indicate attachment confirmed)

*[Handwritten initials]*